

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated July 21, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-17 are pending in this application. Claims 16-17 are added by this amendment.

In the Office Action, the drawings are objected to for not showing the features of claims 13 and 15. It is respectfully submitted that the amendment to claim 15 renders the objection to the drawings regarding claim 15 as moot. In response to the objection regarding claim 13, a New drawing sheet including new FIG. 8 is enclosed. Further, the specification has been amended for conformance with the new FIG. 8. Withdrawal of the drawings objection and approval of the enclosed proposed new drawing is respectfully requested.

In the Office Action, claim 12 is objected to for an informality. Claim 12 is amended to remove the noted informality. Accordingly, withdrawal of the objection to claim 12 is respectfully requested.

In the Office Action, claims 11 and 15 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Without agreeing with the Examiner, and to advance prosecution and expedite allowance of the present application, claims 11 and 15 are amended for better clarity, which is fully supported and enabled by the specification and figures. Accordingly, withdrawal of this rejection to the claims 11 and 15 is respectfully requested.

In the Office Action, claims 1, 2, 4-6, 8, 9, 13 and 14 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,007,039 to Sakemoto ("Sakemoto"). Claims 3 and 7 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sakemoto in view of Applicant's Admitted Prior Art ("AAPA"). It is respectfully submitted that claims 1-15 are allowable over AAPA for at least the following reasons. Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sakemoto in view of U.S. Patent No. 6,747,935 to Watabe ("Watabe"). Claim 12 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sakemoto in view of U.S. Patent No. 4,811,329 to Shikama ("Shikama"). Claim 15 is rejected under 35 U.S.C. §103(a) as

allegedly unpatentable over Sakemoto in view of U.S. Patent Publication No. 2005/0083828 to Chen ("Chen"). It is respectfully submitted that claims 1-17 are allowable over Sakemoto alone and in view of any combination of AAPA, Watabe, Shikama and Chen for at least the following reasons.

As a first point, it is respectfully submitted that Chen is not prior art to the present patent application. Chen has a U.S. filing date of October 17, 2003. The present patent application is based on PCT Patent Application No. PCT/IB03/06052, filed on December 17, 2003 and claims priority to European Patent Application No. 02293267.7 ("Priority Document"), filed on December 30, 2002. This Priority Document was provided in the English language. Accordingly, the present patent application has a priority date, under 35 U.S.C. §102(e), of December 30, 2002 which is prior to the priority date of Chen. Chen is therefore not prior art under 35 U.S.C. §102(e) to the present patent application.

Sakemoto shows an optical information recording/reproducing apparatus wherein each bit of binary data is written by a plurality of corresponding bit pulses.

It is respectfully submitted that the apparatus of claim 1 is not anticipated or made obvious by the teachings of Sakemoto. For example, Sakemoto does not disclose or suggest, an apparatus that amongst other patentable elements, comprises (illustrative emphasis provided) "wherein said irradiation means are sequentially pulsed from at least a high laser current write level to a low laser current level close to zero and back to the high laser current write level for each bit of a binary value during the writing period of a recorded mark to produce a plurality of current pulses during said writing period, wherein a length between a leading edge and trailing edge of the plurality of current pulses determines a respective binary value and wherein a different length determines a different respective binary value" as recited in claim 1, and as substantially recited in each of claims 5 and 9. In Sakemoto, each data bit is written by a plurality of corresponding bit pulses. Each of AAPA, Watabe, Shikama and Chen are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the deficiencies in Sakemoto.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5 and 9 are patentable over Sakemoto

alone and in view of any combination of AAPA, Watabe, Shikama and Chen and notice to this effect is earnestly solicited. Claims 2-4, 6-8 and 10-17 respectively depend from one of Claims 1, 5, and 9 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

PATENT
Serial No. 10/540,696
Amendment in Reply to Office Action of July 21, 2008

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By Gregory L. Thorne

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
October 21, 2008

Enclosure: New drawing sheet (1 sheet including FIG. 8)

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101